



Sen. Heather Steans

**Filed: 4/23/2010**

09600HB5018sam001

LRB096 18816 ASK 40609 a

1 AMENDMENT TO HOUSE BILL 5018

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5018 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 renumbering and changing Section 356z.15, as added by Public  
6 Act 96-180, and adding Section 356z.19 as follows:

7 (215 ILCS 5/356z.16)

8 Sec. 356z.16 ~~356z.15~~. Applicability of mandated benefits  
9 to supplemental policies. Unless specified otherwise, the  
10 following Sections of the Illinois Insurance Code do not apply  
11 to short-term travel, disability income, long-term care,  
12 accident only, or limited or specified disease policies: 356b,  
13 356c, 356d, 356g, 356k, 356m, 356n, 356p, 356q, 356r, 356t,  
14 356u, 356w, 356x, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6,  
15 356z.8, 356z.19, 367.2-5, and 367e.

16 (Source: P.A. 96-180, eff. 1-1-10; revised 10-21-09.)".

1 (215 ILCS 5/356z.19 new)

2 Sec. 356z.19. Tobacco use cessation programs.

3 (a) This Section may be referred to as the Tobacco  
4 Dependence Coverage Law.

5 (b) Tobacco use is the number one cause of preventable  
6 disease and death in Illinois, costing \$4.1 billion annually in  
7 direct health care costs and an additional \$4.35 billion in  
8 lost productivity. In Illinois, the smoking rates are highest  
9 among African Americans (25.8%). Smoking rates among lesbian,  
10 gay, and bisexual adults range from 25% to 44%. The U.S. Public  
11 Health Service Clinical Practice Guideline 2008 Update found  
12 that tobacco dependence treatments are both clinically  
13 effective and highly cost effective. A study in the Journal of  
14 Preventive Medicine concluded that comprehensive smoking  
15 cessation treatment is one of the 3 most important and cost  
16 effective preventive services that can be provided in medical  
17 practice. Greater efforts are needed to achieve more of this  
18 potential value by increasing current low levels of  
19 performance.

20 (c) In this Section, "tobacco use cessation program" means  
21 a program recommended by a physician that follows  
22 evidence-based treatment, such as is outlined in the United  
23 States Public Health Service guidelines for tobacco use  
24 cessation. "Tobacco use cessation program" includes education  
25 and medical treatment components designed to assist a person in

1 ceasing the use of tobacco products. "Tobacco use cessation  
2 program" includes education and counseling by physicians or  
3 associated medical personnel and all FDA approved medications  
4 for the treatment of tobacco dependence irrespective of whether  
5 they are available only over the counter, only by prescription,  
6 or both over the counter and by prescription.

7 (d) A group or individual policy of accident and health  
8 insurance or managed care plan amended, delivered, issued, or  
9 renewed after the effective date of this amendatory Act of the  
10 96th General Assembly to a resident of this State must provide  
11 coverage or reimbursement of up to \$500 annually for a tobacco  
12 use cessation program for a person enrolled in the plan who is  
13 18 years of age or older.

14 (e) Written notice of the availability of coverage under  
15 this Section shall be delivered to the insured upon enrollment  
16 and annually thereafter. An insurer may not deny to an insured  
17 eligibility or continued eligibility to enroll or to renew  
18 coverage under the terms of the plan solely for the purpose of  
19 avoiding the requirements of this Section. An insurer may not  
20 penalize or reduce or limit the reimbursement of an attending  
21 provider or provide incentives, monetary or otherwise, to an  
22 attending provider to induce the provider to provide care to an  
23 insured in a manner inconsistent with this Section.

24 Section 10. The Health Maintenance Organization Act is  
25 amended by changing Section 5-3 as follows:

1 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

2 (Text of Section before amendment by P.A. 96-833)

3 Sec. 5-3. Insurance Code provisions.

4 (a) Health Maintenance Organizations shall be subject to  
5 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
6 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
7 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,  
8 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
9 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15 ~~356z.14,~~  
10 356z.17 ~~356z.15,~~ 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a,  
11 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408,  
12 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection  
13 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,  
14 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

15 (b) For purposes of the Illinois Insurance Code, except for  
16 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
17 Maintenance Organizations in the following categories are  
18 deemed to be "domestic companies":

19 (1) a corporation authorized under the Dental Service  
20 Plan Act or the Voluntary Health Services Plans Act;

21 (2) a corporation organized under the laws of this  
22 State; or

23 (3) a corporation organized under the laws of another  
24 state, 30% or more of the enrollees of which are residents  
25 of this State, except a corporation subject to

1 substantially the same requirements in its state of  
2 organization as is a "domestic company" under Article VIII  
3 1/2 of the Illinois Insurance Code.

4 (c) In considering the merger, consolidation, or other  
5 acquisition of control of a Health Maintenance Organization  
6 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

7 (1) the Director shall give primary consideration to  
8 the continuation of benefits to enrollees and the financial  
9 conditions of the acquired Health Maintenance Organization  
10 after the merger, consolidation, or other acquisition of  
11 control takes effect;

12 (2) (i) the criteria specified in subsection (1) (b) of  
13 Section 131.8 of the Illinois Insurance Code shall not  
14 apply and (ii) the Director, in making his determination  
15 with respect to the merger, consolidation, or other  
16 acquisition of control, need not take into account the  
17 effect on competition of the merger, consolidation, or  
18 other acquisition of control;

19 (3) the Director shall have the power to require the  
20 following information:

21 (A) certification by an independent actuary of the  
22 adequacy of the reserves of the Health Maintenance  
23 Organization sought to be acquired;

24 (B) pro forma financial statements reflecting the  
25 combined balance sheets of the acquiring company and  
26 the Health Maintenance Organization sought to be

1           acquired as of the end of the preceding year and as of  
2           a date 90 days prior to the acquisition, as well as pro  
3           forma financial statements reflecting projected  
4           combined operation for a period of 2 years;

5           (C) a pro forma business plan detailing an  
6           acquiring party's plans with respect to the operation  
7           of the Health Maintenance Organization sought to be  
8           acquired for a period of not less than 3 years; and

9           (D) such other information as the Director shall  
10          require.

11          (d) The provisions of Article VIII 1/2 of the Illinois  
12          Insurance Code and this Section 5-3 shall apply to the sale by  
13          any health maintenance organization of greater than 10% of its  
14          enrollee population (including without limitation the health  
15          maintenance organization's right, title, and interest in and to  
16          its health care certificates).

17          (e) In considering any management contract or service  
18          agreement subject to Section 141.1 of the Illinois Insurance  
19          Code, the Director (i) shall, in addition to the criteria  
20          specified in Section 141.2 of the Illinois Insurance Code, take  
21          into account the effect of the management contract or service  
22          agreement on the continuation of benefits to enrollees and the  
23          financial condition of the health maintenance organization to  
24          be managed or serviced, and (ii) need not take into account the  
25          effect of the management contract or service agreement on  
26          competition.

1           (f) Except for small employer groups as defined in the  
2 Small Employer Rating, Renewability and Portability Health  
3 Insurance Act and except for medicare supplement policies as  
4 defined in Section 363 of the Illinois Insurance Code, a Health  
5 Maintenance Organization may by contract agree with a group or  
6 other enrollment unit to effect refunds or charge additional  
7 premiums under the following terms and conditions:

8           (i) the amount of, and other terms and conditions with  
9 respect to, the refund or additional premium are set forth  
10 in the group or enrollment unit contract agreed in advance  
11 of the period for which a refund is to be paid or  
12 additional premium is to be charged (which period shall not  
13 be less than one year); and

14           (ii) the amount of the refund or additional premium  
15 shall not exceed 20% of the Health Maintenance  
16 Organization's profitable or unprofitable experience with  
17 respect to the group or other enrollment unit for the  
18 period (and, for purposes of a refund or additional  
19 premium, the profitable or unprofitable experience shall  
20 be calculated taking into account a pro rata share of the  
21 Health Maintenance Organization's administrative and  
22 marketing expenses, but shall not include any refund to be  
23 made or additional premium to be paid pursuant to this  
24 subsection (f)). The Health Maintenance Organization and  
25 the group or enrollment unit may agree that the profitable  
26 or unprofitable experience may be calculated taking into

1 account the refund period and the immediately preceding 2  
2 plan years.

3 The Health Maintenance Organization shall include a  
4 statement in the evidence of coverage issued to each enrollee  
5 describing the possibility of a refund or additional premium,  
6 and upon request of any group or enrollment unit, provide to  
7 the group or enrollment unit a description of the method used  
8 to calculate (1) the Health Maintenance Organization's  
9 profitable experience with respect to the group or enrollment  
10 unit and the resulting refund to the group or enrollment unit  
11 or (2) the Health Maintenance Organization's unprofitable  
12 experience with respect to the group or enrollment unit and the  
13 resulting additional premium to be paid by the group or  
14 enrollment unit.

15 In no event shall the Illinois Health Maintenance  
16 Organization Guaranty Association be liable to pay any  
17 contractual obligation of an insolvent organization to pay any  
18 refund authorized under this Section.

19 (g) Rulemaking authority to implement Public Act 95-1045  
20 ~~this amendatory Act of the 95th General Assembly~~, if any, is  
21 conditioned on the rules being adopted in accordance with all  
22 provisions of the Illinois Administrative Procedure Act and all  
23 rules and procedures of the Joint Committee on Administrative  
24 Rules; any purported rule not so adopted, for whatever reason,  
25 is unauthorized.

26 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;

1 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;  
2 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.  
3 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised  
4 10-23-09.)

5 (Text of Section after amendment by P.A. 96-833)

6 Sec. 5-3. Insurance Code provisions.

7 (a) Health Maintenance Organizations shall be subject to  
8 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
9 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
10 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,  
11 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
12 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,  
13 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,  
14 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,  
15 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
16 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
17 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

18 (b) For purposes of the Illinois Insurance Code, except for  
19 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health  
20 Maintenance Organizations in the following categories are  
21 deemed to be "domestic companies":

22 (1) a corporation authorized under the Dental Service  
23 Plan Act or the Voluntary Health Services Plans Act;

24 (2) a corporation organized under the laws of this  
25 State; or

1           (3) a corporation organized under the laws of another  
2 state, 30% or more of the enrollees of which are residents  
3 of this State, except a corporation subject to  
4 substantially the same requirements in its state of  
5 organization as is a "domestic company" under Article VIII  
6 1/2 of the Illinois Insurance Code.

7           (c) In considering the merger, consolidation, or other  
8 acquisition of control of a Health Maintenance Organization  
9 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

10           (1) the Director shall give primary consideration to  
11 the continuation of benefits to enrollees and the financial  
12 conditions of the acquired Health Maintenance Organization  
13 after the merger, consolidation, or other acquisition of  
14 control takes effect;

15           (2) (i) the criteria specified in subsection (1) (b) of  
16 Section 131.8 of the Illinois Insurance Code shall not  
17 apply and (ii) the Director, in making his determination  
18 with respect to the merger, consolidation, or other  
19 acquisition of control, need not take into account the  
20 effect on competition of the merger, consolidation, or  
21 other acquisition of control;

22           (3) the Director shall have the power to require the  
23 following information:

24           (A) certification by an independent actuary of the  
25 adequacy of the reserves of the Health Maintenance  
26 Organization sought to be acquired;

1 (B) pro forma financial statements reflecting the  
2 combined balance sheets of the acquiring company and  
3 the Health Maintenance Organization sought to be  
4 acquired as of the end of the preceding year and as of  
5 a date 90 days prior to the acquisition, as well as pro  
6 forma financial statements reflecting projected  
7 combined operation for a period of 2 years;

8 (C) a pro forma business plan detailing an  
9 acquiring party's plans with respect to the operation  
10 of the Health Maintenance Organization sought to be  
11 acquired for a period of not less than 3 years; and

12 (D) such other information as the Director shall  
13 require.

14 (d) The provisions of Article VIII 1/2 of the Illinois  
15 Insurance Code and this Section 5-3 shall apply to the sale by  
16 any health maintenance organization of greater than 10% of its  
17 enrollee population (including without limitation the health  
18 maintenance organization's right, title, and interest in and to  
19 its health care certificates).

20 (e) In considering any management contract or service  
21 agreement subject to Section 141.1 of the Illinois Insurance  
22 Code, the Director (i) shall, in addition to the criteria  
23 specified in Section 141.2 of the Illinois Insurance Code, take  
24 into account the effect of the management contract or service  
25 agreement on the continuation of benefits to enrollees and the  
26 financial condition of the health maintenance organization to

1 be managed or serviced, and (ii) need not take into account the  
2 effect of the management contract or service agreement on  
3 competition.

4 (f) Except for small employer groups as defined in the  
5 Small Employer Rating, Renewability and Portability Health  
6 Insurance Act and except for medicare supplement policies as  
7 defined in Section 363 of the Illinois Insurance Code, a Health  
8 Maintenance Organization may by contract agree with a group or  
9 other enrollment unit to effect refunds or charge additional  
10 premiums under the following terms and conditions:

11 (i) the amount of, and other terms and conditions with  
12 respect to, the refund or additional premium are set forth  
13 in the group or enrollment unit contract agreed in advance  
14 of the period for which a refund is to be paid or  
15 additional premium is to be charged (which period shall not  
16 be less than one year); and

17 (ii) the amount of the refund or additional premium  
18 shall not exceed 20% of the Health Maintenance  
19 Organization's profitable or unprofitable experience with  
20 respect to the group or other enrollment unit for the  
21 period (and, for purposes of a refund or additional  
22 premium, the profitable or unprofitable experience shall  
23 be calculated taking into account a pro rata share of the  
24 Health Maintenance Organization's administrative and  
25 marketing expenses, but shall not include any refund to be  
26 made or additional premium to be paid pursuant to this

1 subsection (f)). The Health Maintenance Organization and  
2 the group or enrollment unit may agree that the profitable  
3 or unprofitable experience may be calculated taking into  
4 account the refund period and the immediately preceding 2  
5 plan years.

6 The Health Maintenance Organization shall include a  
7 statement in the evidence of coverage issued to each enrollee  
8 describing the possibility of a refund or additional premium,  
9 and upon request of any group or enrollment unit, provide to  
10 the group or enrollment unit a description of the method used  
11 to calculate (1) the Health Maintenance Organization's  
12 profitable experience with respect to the group or enrollment  
13 unit and the resulting refund to the group or enrollment unit  
14 or (2) the Health Maintenance Organization's unprofitable  
15 experience with respect to the group or enrollment unit and the  
16 resulting additional premium to be paid by the group or  
17 enrollment unit.

18 In no event shall the Illinois Health Maintenance  
19 Organization Guaranty Association be liable to pay any  
20 contractual obligation of an insolvent organization to pay any  
21 refund authorized under this Section.

22 (g) Rulemaking authority to implement Public Act 95-1045,  
23 if any, is conditioned on the rules being adopted in accordance  
24 with all provisions of the Illinois Administrative Procedure  
25 Act and all rules and procedures of the Joint Committee on  
26 Administrative Rules; any purported rule not so adopted, for

1 whatever reason, is unauthorized.

2 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;  
3 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;  
4 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.  
5 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.  
6 6-1-10.)

7 Section 15. The Limited Health Service Organization Act is  
8 amended by changing Section 4003 as follows:

9 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

10 Sec. 4003. Illinois Insurance Code provisions. Limited  
11 health service organizations shall be subject to the provisions  
12 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,  
13 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,  
14 155.04, 155.37, 355.2, 356v, 356z.10, 356z.19, 368a, 401,  
15 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and  
16 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and  
17 XXVI of the Illinois Insurance Code. For purposes of the  
18 Illinois Insurance Code, except for Sections 444 and 444.1 and  
19 Articles XIII and XIII 1/2, limited health service  
20 organizations in the following categories are deemed to be  
21 domestic companies:

22 (1) a corporation under the laws of this State; or

23 (2) a corporation organized under the laws of another  
24 state, 30% of more of the enrollees of which are residents

1 of this State, except a corporation subject to  
2 substantially the same requirements in its state of  
3 organization as is a domestic company under Article VIII  
4 1/2 of the Illinois Insurance Code.

5 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

6 Section 20. The Voluntary Health Services Plans Act is  
7 amended by changing Section 10 as follows:

8 (215 ILCS 165/10) (from Ch. 32, par. 604)

9 (Text of Section before amendment by P.A. 96-833)

10 Sec. 10. Application of Insurance Code provisions. Health  
11 services plan corporations and all persons interested therein  
12 or dealing therewith shall be subject to the provisions of  
13 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
14 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,  
15 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,  
16 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
17 356z.14, 356z.15 ~~356z.14~~, 356z.19, 364.01, 367.2, 368a, 401,  
18 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
19 and (15) of Section 367 of the Illinois Insurance Code.

20 Rulemaking authority to implement Public Act 95-1045 ~~this~~  
21 ~~amendatory Act of the 95th General Assembly~~, if any, is  
22 conditioned on the rules being adopted in accordance with all  
23 provisions of the Illinois Administrative Procedure Act and all  
24 rules and procedures of the Joint Committee on Administrative

1 Rules; any purported rule not so adopted, for whatever reason,  
2 is unauthorized.

3 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;  
4 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
5 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
6 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;  
7 96-328, eff. 8-11-09; revised 9-25-09.)

8 (Text of Section after amendment by P.A. 96-833)

9 Sec. 10. Application of Insurance Code provisions. Health  
10 services plan corporations and all persons interested therein  
11 or dealing therewith shall be subject to the provisions of  
12 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
13 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,  
14 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,  
15 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
16 356z.14, 356z.15, 356z.18, 356z.19, 364.01, 367.2, 368a, 401,  
17 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
18 and (15) of Section 367 of the Illinois Insurance Code.

19 Rulemaking authority to implement Public Act 95-1045, if  
20 any, is conditioned on the rules being adopted in accordance  
21 with all provisions of the Illinois Administrative Procedure  
22 Act and all rules and procedures of the Joint Committee on  
23 Administrative Rules; any purported rule not so adopted, for  
24 whatever reason, is unauthorized.

25 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;

1 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
2 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
3 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;  
4 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

5 Section 95. No acceleration or delay. Where this Act makes  
6 changes in a statute that is represented in this Act by text  
7 that is not yet or no longer in effect (for example, a Section  
8 represented by multiple versions), the use of that text does  
9 not accelerate or delay the taking effect of (i) the changes  
10 made by this Act or (ii) provisions derived from any other  
11 Public Act.".